

2003 ANNUAL ETHICS BRIEFING

MEDDC&S and FORT SAM HOUSTON





**Welcome to this year's
ethics training
on behalf of the Staff Judge
Advocate,
AMEDDC&S and Fort Sam
Houston.**

**To receive credit for this training,
review all of the slides; contact
your ethics counselor (221-2373)
with any questions; and notify your
rater or supervisor when you have
completed the training.**

Ethics R' Us

MEDCOM

221-8400

BLDG. 2792

AMEDDC&S and FSH

221-2373

BLDG. 134

FIFTH ARMY

221-1515

BLDG. 16

BAMC

916-2031

BLDG. 3600

5th ARMY RECRUITING

221-0155

BLDG. 2007

Our subject today is
“Dealings with Non-Federal Entities.”

Any organization that is not part of the U.S.

Government is a “non-Federal entity” (NFE).

In this training, we will focus on dealings with private organizations (PO).

Our goal is to help you recognize the main PO issues, so

OUR ETHICS FOUNDATION

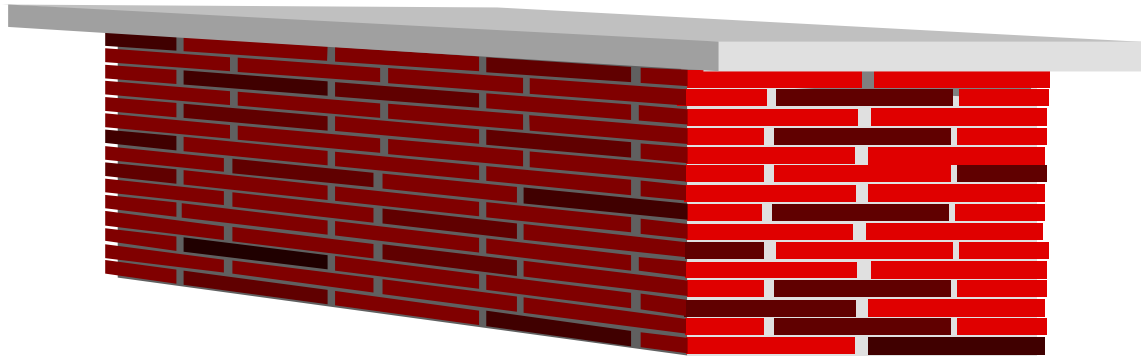
EXECUTIVE ORDER 12674 -
PRINCIPLES OF ETHICAL CONDUCT

ETHICS IN GOVERNMENT ACT OF 1978

TITLE 5, CODE OF FEDERAL REGULATIONS, PART 2635
STANDARDS OF ETHICAL CONDUCT

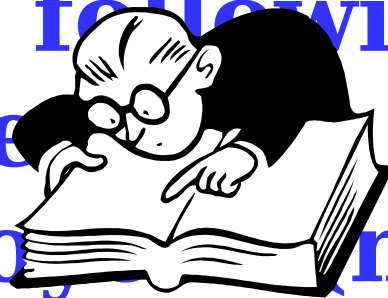
5 C.F.R. 5500.7-R, THE JOINT ETHICS REGULATION (JER)

18 U.S.C. SECTIONS 202-203, 205, and 207-209



Our ethics foundation is built on various laws and regulations such as E.O. 12674.

Executive Order 12674 is an order of our Commander-in-chief, the President of the United States. It sets forth the following 14 principles of ethical conduct for Federal employees (military and civilian)



PRINCIPLES OF ETHICAL CONDUCT

E.O. 12674 as amended by E.O. 12731

- 1. Public Service is a public trust requiring employee loyalty to the Constitution, the laws, and ethical principles, not private gain.**
- 2. Employees shall not hold financial interests that conflict with the conscientious performance of duty.**
- 3. Employees shall not engage in financial transactions involving nonpublic Government information or allow the improper use of such information to further any private interest.**
- 4. An employee shall not solicit or accept any gift or thing of monetary value from any person or entity seeking official action whose interests may be substantially affected by the performance or nonperformance of the employee's duties.**

5. Employees shall put forth honest effort in the performance of their duties.

6. Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.

7. Employees shall not use public office for private gain.

8. Employees shall act impartially and not give preferential treatment to any private organization or individual.

9. Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

10. Employees shall not engage in outside employment, including seeking or negotiating for employment, that interferes with official Government duties and responsibilities.

11. Employees shall disclose waste, fraud, abuse, and other illegal activities to the appropriate authorities.

12. Employees shall satisfy in good faith their obligations to the public, including all just financial obligations, especially those imposed by federal, state, or local taxes -- that are imposed by law.

13. Employees shall adhere to all laws and regulations that promote equal opportunity for all Americans regardless of race, ethnicity, religion, sex, national origin, age, or handicap.

14. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this Order.

**STANDARDS OF ETHICAL
CONDUCT
FOR EMPLOYEES
OF THE EXECUTIVE BRANCH**

**5 C.F.R. PART 2635
(Oct. 2, 2002)**

**OFFICE OF GOVERNMENT
ETHICS**

**The Office of Government Ethics
agency within the Executive Branch
established by the Ethics in Government
of 1978.**

**It provides overall direction to the
Executive branch ethics program.
includes DOD.**

**Its regulatory guidance on conflicts
interests is set forth at Title 5 of the
Federal Regulations, Section 2635**

JOINT ETHICS REGULATION (JER)

**DOD 5500.7-R
with Changes 1-4**

http://www.defenselink.mil/dodgc/defense_ethics/

**APPLICABLE TO ALL OF
DEPARTMENT OF DEFENSE**

Punishable as a violation of

Each Executive Agency has its supplemental agency regulation. For DOD, it is the Joint Ethics Regulation (JER), DOD 5500.7-R.

This regulation applies equally to the Army, Navy, Air Force, and Marine Corps.

Violations of this regulation are punishable as violations of a lawful general regulation under Article 92, UCMJ.

**At the base of our ethics foundation are
several federal criminal law statutes
with conflicts of interests.**

**These statutes are enforced by the
Attorney General and provide for monetary
penalties, jail time, and yes, government employees
can be prosecuted for a violation of one or
more of these statutes.**

**These statutes are briefly described on the
next slide.**

CONFLICT OF INTERESTS LAWS

Title 18, United States Code

§202 - Definitions

**§203 - Prohibits receiving compensation in a matter affecting the
Government.**

**§205 - Prohibits activities and receipt of
compensation for
representing others in a claim against or
matter affecting
the Government.**

WHAT WE WILL COVER

RELATIONSHIPS WITH PRIVATE ORGANIZATIONS

- **PERSONAL vs. OFFICIAL CAPACITY**
- **CO-SPONSORSHIP**
- **INSURANCE ORGANIZATIONS**
- **EDUCATIONAL PROGRAMS**

The first step in dealing with and resolving any PO issue is to determine whether the relationship at issue is personal or official.

The nature of the relationship will determine the analysis and generate the answer, and more often than not, the results will be different depending on whether a person is operating in their personal or official capacity.

1. Do not give preferential treatment to any non-Federal organization or private individual.

2. Do not misuse your public office for your own private gain or that of others.

3. Use Government resources only for authorized purposes.

PRIVATE ORGANIZATIONAL RELATIONSHIPS

MEMBERSHIP IN:

OFFICIAL CAPACITY

**Liaison - Yes, Membership is in the
name of the Army, not the individual.**

PERSONAL CAPACITY

**OK (Caveat: racist, extremist, or
partisan political PO)**

OFFICIAL: The AMEDDC&S Commander may appoint a DOD employee to serve as a Liaison when he determines there is a significant and continuing DOD interest to be served by such representation. Liaisons represent DOD interests in an advisory capacity only and do not participate in the management of the PO.

PERSONAL: Soldiers and Army civilians are not precluded from joining, participating in, or holding office in private organizations. On the contrary, they are encouraged to do so, especially

PERSONAL: A DOD officer or employee may join a PO unless the membership is offered because of the employee's official position.

The DOD employee may participate in the PO provided he/she acts exclusively outside the scope of their official positions.

NOTE: Title 18, United States Code,
Section 205

PRIVATE ORGANIZATIONAL RELATIONSHIPS

MANAGEMENT:

OFFICIAL CAPACITY

**No, unless approved by the Secretary
of Army and DOD General Counsel.**

PERSONAL CAPACITY

**OK, unless offered because of
government position or conflicts**

OFFICIAL CAPACITY: A DOD employee may not participate in an official capacity in the management of a private organization without the authorization of the Secretary of Army and the DOD General Counsel. Requests for authorization are generally not approved.

To be approved, a PO must be nonprofit and any of the following:

- An entity that regulates and supports the athletic programs of the service academies;
- An entity that regulates

- An entity that (i) regulates the performance, standards, and policies of military health care (including health care associations and professional societies) and (ii) has designated the position or capacity in that entity in which a DOD employee may serve if authorized.

PERSONAL CAPACITY: By becoming an officer, director, or employee of a PO, an individual establishes a “covered relationship” with that

Note that this statute prohibits your participation in official matters, even though someone else might make the final decision.

Note also that this prohibition applies even when you may not be personally participating in a PO, but your spouse or dependent child is the officer, director, employee, or active participant in the PO.

As a matter of personnel policy, the Deputy

PRIVATE ORGANIZATIONAL RELATIONSHIPS

ENDORSEMENT:

OFFICIAL CAPACITY

**Generally prohibited - See exceptions
on next slide.**

PERSONAL CAPACITY

**Name and rank OK, may not use
official title**

OFFICIAL CAPACITY: Endorsement of a non-Federal entity, event, product, service, or enterprise may be neither stated nor implied by DOD employees in their official capacities, except for:

- The Combined Federal Campaign (CFC),
- The Army Emergency Relief (AER),
- Emergency and disaster appeals approved by the Office of Personnel Management (OPM), and
- Other organizations composed primarily of DOD employees or their dependents when fundraising among

A limited exception to the prohibition on official endorsements is official acknowledgements.

Acknowledgements may be given in the following situations even when the recipient intends to use it for publicity:

- Compliance with agency standards.**
- Recognition of achievement in an agency program.**

PERSONAL CAPACITY: A DOD employee should not use or allow the use of his/her official position, or organization name in connection with activities performed in their personal capacity. This tends to suggest official endorsement and preferential treatment by DOD.

You may use your military grade and department as part of your name, e.g., **John Smith, U.S. Army.**

PRIVATE ORGANIZATIONAL RELATIONSHIPS

PROVIDING LOGISTICAL SUPPORT:

OFFICIAL CAPACITY

**Yes, on a limited basis when the
AMEDDC&S**

**Commander makes all of the
determinations in
JER 3-211.**

PERSONAL CAPACITY

OFFICIAL CAPACITY: Under JER 3-211, the AMEDDC&S Commander may provide logistical support on a limited basis to a PO, when he determines all of the following:

- The support does not interfere with the performance of military duties nor detract from readiness;
- DOD community relations or other legitimate DOD public affairs or military training interests are served;
- It is appropriate to associate DOD and the Army with the event;
- The event is of interest to the local

- The Army is able and willing to provide the same support to comparable events sponsored by other similar organizations;
- The use is not restricted by statute;
- No admission fee (beyond what will cover the reasonable costs of sponsoring the event) is charged for the event; and
- The sponsoring NFE is not affiliated with the CFC or, if affiliated, the Director, OPM, has no objection.

PERSONAL CAPACITY: A DOD

PRIVATE ORGANIZATIONAL RELATIONSHIPS

**SPEAKING, PANEL MEMBER
AT CONFERENCE, SEMINAR:**

OFFICIAL CAPACITY

**Generally OK. Impartial approval and
disclaimer
required.**

PERSONAL CAPACITY

Generally OK. Caveat: Disclaimer and

OFFICIAL CAPACITY: A Commander or head of an Army organization may provide DOD employees in their official capacities to express DOD policies as speakers, panel members, or other participants.

Whenever you are identified by your DOD position in connection with personal teaching, speaking, or writing that deals with an ongoing or announced DOD policy, program, or operation, you must make a disclaimer. You must state that the views presented are yours and do not necessarily represent the position of DOD, the Army, or Fort Sam Houston.

If the disclaimer is for a writing, it must be printed in a prominent place in the writing itself.

PERSONAL CAPACITY: You should be aware that DOD employees are prohibited from receiving compensation for outside speaking, teaching, or writing that relates to their official duties. This is explained in detail on the next slide. This rule does not prohibit speaking, teaching, or writing that is based on general professional

REMEMBER

You may not accept compensation for personal teaching, speaking, or writing if any of the 4 following facts is true:

- You were invited primarily because of your official position rather than your subject matter expertise.**
- The invitation or offer of compensation was made to you by someone with interests that may be affected by the performance of your official duties.**
- Your presentation draws on nonpublic government information.**

PRIVATE ORGANIZATIONAL RELATIONSHIPS

ATTENDANCE/PARTICIPATION IN MEETINGS, SEMINARS, AND CONFERENCES:

OFFICIAL CAPACITY

Generally OK, unless racist or violent organization.

Must be impartial government action and government benefits.

PERSONAL CAPACITY

OFFICIAL CAPACITY: The first supervisor who is a commissioned military officer or a civilian above GS/GM-11 in the employee's chain of command or supervision may permit their DOD employees to attend meetings, conferences, seminars, or similar events sponsored by private organizations providing there is a legitimate government purpose.

PERSONAL CAPACITY:

Military - Attending a meeting or activity with knowledge that it involves an extremist cause is prohibited when on duty, when

Civilian – Participating in a meeting of a racist or extremist organization may subject a civilian employee to disciplinary action depending on the facts of the specific case.

Professional Associations and Learned Societies:

The first supervisor who is a commissioned military officer or a civilian above GS/GM-11 in the employee's chain of command or supervision (Agency Designee) may

The same Agency Designee may permit the limited use by their DOD employee of Federal Government equipment or administrative support services to prepare papers to be presented at such non-profit professional association or learned society events or to be published in professional journals when:

- The participation or paper is related to the DOD employee's official position or to DOD functions, management, or mission;**
- The Army can derive some benefit from the participation or publication.**

PRIVATE ORGANIZATIONAL RELATIONSHIPS

FUNDRAISING:

OFFICIAL ENDORSEMENT

OK only for CFC, AER, most MWR programs, other military relief organizations, OPM-approved emergency and disaster appeals, and organizations composed primarily of DOD members and their dependents when fundraising among

OFFICIAL CAPACITY: DOD employees shall not officially endorse or appear to endorse fundraising for any PO, except for:

- The Combined Federal Campaign (CFC),
- The Army Emergency Relief (AER),
- Emergency and disaster appeals approved by the Office of Personnel Management (OPM), and
- Other organizations composed primarily of DOD employees or their dependents when fundraising among their own members for the benefit of welfare funds for their own members or

PRIVATE ORGANIZATIONAL RELATIONSHIPS

FUNDRAISING:

PERSONAL CAPACITY

OK, if not in federal workplace and do not use title or position. May not imply DOD endorsement. May not solicit subordinates or prohibited sources.

Prohibited sources are defined on the next slide. If

A prohibited source is any person or PO/NFE that:

(1) Is seeking official action by the Army;

(2) Does business or seeks to do business with the Army;

(3) Conducts activities regulated by the Army;

(4) Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or

CO-SPONSORSHIP

The manner and degree of Army participation in an event determines what kind of event it is, i.e., Army sponsored, co-sponsored, or Army supported.

A command is a co-sponsor of an event when it is one of the organizations that develops the substantive aspects of the event or provides substantial logistical support for the event.

- **The subject matter of the event involves scientific, technical, or professional issues that are relevant to the mission of the AMEDDC&S;**
- **The purpose of co-sponsorship is to transfer Federally developed technology or to stimulate wider interest and inquiry into the issues identified above;**
- **The event is open to interested parties;**
- **The PO is a recognized scientific, technical, educational, or professional organization approved for this purpose by the Army General Counsel, giving due**

The co-sponsorship agreement must include, at the minimum:

- The nature and purpose of the event;**
- The undertakings and liabilities of the parties;**
- Funding responsibilities and costs (including admission fees);**
- A disclaimer of Government liability if AMEDDC&S reduces the level of its participation or completely withdraws; and**
- A statement that the PO will not use**

INSURANCE COMPANIES

Specific guidance governing insurance companies is found in:

DOD Directive 1344.7

AR 210-7

**Fort Sam Houston Supplement 1 to
AR 210-7**

If you have a specific question/problem concerning insurance companies on-post, you should contact the Army Community Service and/or the Administrative Law Division of the Staff Judge Advocate's Office.

- **Conduct of all insurance business shall be by specific appointment.**
- **Only installation-approved insurance agents are permitted to solicit.**
- **No solicitation of recruits, trainees, or transient personnel in a mass or captive audience is allowed.**
- **An agent may not participate in any military service-sponsored insurance education or orientation program.**
- **No active duty DOD personnel may**

EDUCATIONAL PROGRAMS

The Army has an affirmative duty to develop and disseminate educational programs for soldiers on how to conduct their personal commercial affairs.

The services of representatives of credit unions, banks, and those nonprofit military associations (provided such associations are not underwritten by a commercial insurance company) approved by DOD may be used for this purpose.

Under no circumstances shall commercial agents, including

DO'S & DON'TS SUMMARY

DO'S: Information

As a general matter, it is permissible to use government resources to provide information on a general basis concerning a PO's activities that Army personnel might be interested in either an official capacity (e.g., training, symposia, seminars) or unofficial and personal capacity (e.g., picnics, car washes, luncheons, entertainment). For the "unofficial" activities, use of government

SPECIFIC DO'S cont.

DO's: Membership

Commanders may encourage soldiers to become active in and join professional, technical, community, or other types of organizations. Within this context, it would be permissible and not a prohibited endorsement of any one organization to identify and describe several organizations that support professional development or the military community, or that are part of the civilian community and worthy of consideration. It would even be

The key is that you may not single out or focus on any one PO.



DON'TS

SPECIFIC DON'TS:

Do not appoint a point of contact (POC) in a unit for a PO's membership drive or offer a pass or other benefit to the unit with the highest membership or participation rate in a PO.

Do not address subordinates in formation or on Army letterhead to extol the virtues of a particular PO.

Do not offer privileges/promotions for joining a PO or threaten with

DON'TS cont.

Do not require subordinates to attend a PO meeting so that they can learn about the organization and join.

Do not engage in coercive tactics such as requiring a soldier to explain a decision not to participate in or join a PO.

Do not keep statistics tracking membership in a PO.

Do not accept an honorary membership in a PO in which the

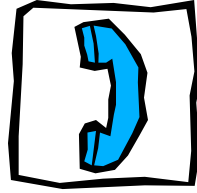
DON'TS cont.

Do not create, operate, or administer a PO in an official capacity.

Do not allow POs to routinely conduct briefings at official functions or mandatory training.

Do not use officer professional development (OPD) training to encourage membership in particular private organizations.

CONCLUSION



No matter what the ethics issue may be, if you're not sure what to do, it's always a good idea to check with your ethics counselor in advance.

A list of Fort Sam Houston Ethics Counselors follows.

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FIFTH ARMY

221-1515

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916-2031

BLDG. 3600

5th ARMY RECRUITING

221-0155

BLDG. 2007

This concludes your Annual Ethics Training for 2003.

**Notify your rater/supervisor
that you
have completed this training to
ensure you
are credited with this
mandatory
requirement.**

